

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

CALUMET RIVER FLEETING, INC.

Employer

and

**Case 13-RC-21794
Stipulation**

**INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 150, AFL-CIO**

Petitioner

SECOND REPORT ON OBJECTIONS AND NOTICE OF HEARING

An election was conducted pursuant to a petition filed on September 15, 2008, and a Stipulated Election Agreement approved on September 29, 2008.¹ The payroll period eligibility date for the election was September 14, 2008. The Petitioner, on October 20, 2008, filed timely objections to conduct affecting the results of the Election, a copy of which was served on the Employer and a copy of which is attached as Exhibit A. On November 10, 2008, a Report on Objections issued, recommending that the Petitioner's Objections be sustained and that a re-run election be conducted. Upon exceptions filed to the Report on Objections, the Board issued its Decision and Order Remanding on March 9, 2009, a copy of which is attached as Exhibit B.

In accordance with the Board's Order, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, a hearing will be held before an Administrative Law Judge to resolve the issues raised by the Objections.

¹ The tally of ballots shows that there were approximately 20 eligible voters. Ten ballots were cast in favor of the Petitioner; 10 ballots were cast against the participating labor organization and 0 ballots were challenged.

The unit consists of: All tug engineers, deck engineers, deckhands, dockside mechanics, and electricians employed by the Employer at or dispatched out of its offices currently located at 10048 Indianapolis Blvd., Chicago, Illinois; excluding all other employees, managers, captains, office clerical employees and guards, professional employees and supervisors as defined in the Act.

IT IS FURTHER ORDERED that the designated Administrative Law Judge, at the conclusion of the hearing, shall prepare and cause to be served on the parties, a report containing resolution of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues raised in the Objections

IT IS FURTHER ORDERED that, thereafter, this case be transferred to and continued before the Board in Washington, D.C., and that the provisions of Sections 102.69(i) and (f) of the Board's Rules and Regulations shall govern the filing of any exceptions to the Administrative Law Judge's Report.

YOU ARE HEREBY NOTIFIED that, pursuant to Section 9(c) of the National Labor Relations Act, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board on April 6, 2009, at 10:30 a.m. and on consecutive days thereafter until completed at 209 S. LaSalle Street, 9th Floor, Chicago, Illinois at which time and place the parties will have the right to appear in person, or otherwise, and submit testimony and/or other evidence with respect to the issues raised by the Employer in its exceptions.

Dated at Chicago, Illinois, this 18th day of March, 2009.



Joseph A. Barker, Regional Director
National Labor Relations Board – Region 13
209 South LaSalle Street, Suite 900
Chicago, IL 60604

BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

DOCKETED

Calumet River Fleeting,

Employer,

and

International Union of Operating Engineers,
Local 150, AFL-CIO,

Union.

Case No. 13-RC-21794

OBJECTIONS TO ELECTION

The International Union of Operating Engineers, Local 150, AFL-CIO ("Local 150"), pursuant to NLRB Rules and Regulations 102.69(a), objects to the election conducted by Region 13 in the above case on October 15, 2008. Local 150 objects to the election for the following reasons:

1. The Board Agent assigned to the election failed to honor a challenge voiced prior to the dropping of a ballot into the ballot box.
2. The Board Agent permitted arguments on the merits of a challenge to take place at the balloting station.
3. The Board Agent failed to impound the ballot of an individual whose ballot had been challenged.

Dated: October 17, 2008

Respectfully submitted,

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 150, AFL-CIO

By: 

One of the Attorneys for the Union

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NOT TO BE INCLUDED
IN BOUND VOLUMES

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Chicago, IL

DOCKETED

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALUMET RIVER FLEETING, INC.
Employer

and

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INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL 150, AFL-CIO
Petitioner

DECISION AND ORDER REMANIDNG

The National Labor Relations Board has considered objections to an election held October 15, 2008, and the Regional Director's Report recommending disposition of them.¹ The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 10 for and 10 against the Petitioner, with no challenged ballots.

The Board has reviewed the Regional Director's report in light of the exceptions and briefs,² and finds that the Employer's exceptions raise substantial and material factual issues

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

² Pursuant to Section 102.69 of the Board's Rules and Regulations, we shall consider the Employer's "request for review" as exceptions to the Regional Director's Report and the Petitioner's "response" as an answering brief.

that can best be resolved by a hearing. The Employer contends that the Petitioner failed to challenge Angelia Ksiazek, the voter in question, and that the Board agent's conduct did not warrant setting aside the election. However, both parties now agree that this issue warrants a hearing, and that the eligibility of Ksiazek should be determined. We agree, and therefore remand this case for a hearing.

ORDER REMANDING

IT IS ORDERED that this case is remanded to the Regional Director for further appropriate action.

Dated, Washington, D.C., March 9, 2009.

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

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UNITED STATES GOVERNMENT
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NOTICE

Case: 13-RC-21794
Stipulation

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in **detail**;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**

(5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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